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UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

10   MICROSOFT CORPORATION,

11   Plaintiffs,

12   v.

13   MOTOROLA, INC, et al.,

14   Defendant.

CASE NO. C10-1823JLR

ORDER TO SHOW CAUSE

15   Before the court are two motions by Plaintiff Microsoft Corporation ("Microsoft")

16   to seal certain documents. (First Mot. to Seal (Dkt. # 117); Second Mot. to Seal (Dkt. #

17   138).) Microsoft moves to seal (1) Exhibit B to the November 28, 2011 Declaration of

18   Christopher Wion (Dkt. # 120-2); (2) limited portions of Microsoft's Motion for Partial

19   Summary Judgment Dismissing Motorola's Claim for Injunctive Relief (Dkt. # 139); (3)

20   limited portions of the Declaration of Christopher Wion in Support of Microsoft's Motion

21   for Partial Summary Judgment Dismissing Motorola's Claim for Injunctive Relief (Dkt. #

22   140); (4) Exhibit 5 to the December 15, 2011 Declaration of Christopher Wion (Dkt. #

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1 140-5); and (5) Exhibit 6 to the December 15, 2011 Declaration of Christopher Wion

2 (Dkt. # 140-6). Microsoft states that all five of these documents have been marked by

3 Defendants Motorola, Inc., Motorola Mobility, Inc., and General Instrument

4 Corporation's (collectively, "Motorola") as confidential, and pursuant to the parties'

5 protective order, Microsoft is required to file the documents under seal. (First Mot. to

6 Seal at 2; Second Mot. to Seal at 2.) Motorola responded to both of Microsoft's motions

7 to seal and stated only that it did not oppose the motions. (First Resp. (Dkt. # 135) at 2;

8 Second Resp. (Dkt. # 149) at 2.) For the following reasons, the court ORDERS the

9 parties to show cause as to why these documents should remain under seal.
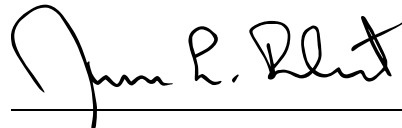
10   Pursuant to Western District of Washington Local Rule CR 5(g)(2), the court may,

11 for "good cause under [Federal] Rule [of Civil Procedure] 26(c)," seal a document

12 attached to a nondispostive motion, or seal a document attached to a dispositive motion

13 upon a "compelling showing that the public's right of access is outweighed by the

14 interests of the public and the parties in protecting the court's files from public review."

15 Local Rules W.D. Wash. CR 5(g)(2). Similarly, the Ninth Circuit has held that

16 "compelling reasons" must be shown to seal judicial records attached to a dispositive

17 motion. *Kakakama v. City and Cnty. of Honolulu*, 447 F.3d 1172, 1179 (9th Cir. 2006).

18   Here, Microsoft has only stated that pursuant to the parties' protective order it

19 must file the five documents under seal. Microsoft provides no explanation as to why

20 these documents should be sealed except that Motorola has marked them as confidential.

21 In response, Motorola states only that it does not oppose Microsoft's motions to seal and

22 likewise provides the court with no rationale for sealing the documents. The parties have

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1 | provided the court with no support for sealing these documents beyond Motorola's word

2 | that they are confidential. Such a showing is insufficient to meet the standard for sealing

3 | documents under Western District of Washington Local Rule CR 5.

4 | Therefore, the court ORDERS the parties to show cause no later than February 15,

5 | 2012 why the five documents should remain under seal. The parties shall limit their

6 | response to no more than five pages each. If neither Microsoft or Motorola responds to

7 | this order, the court will lift the seal of the documents at issue in Microsoft's two

8 | motions.

9 | Dated this 10th day of February, 2012.

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12 | JAMES L. ROBART
     United States District Judge

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